



**NEVADA COMMISSION ON ETHICS
EXECUTIVE DIRECTOR'S REPORT AND RECOMMENDATION
REGARDING JUST AND SUFFICIENT CAUSE**

REQUEST FOR OPINION NO. 04-71

SUBJECT: OSCAR B. GOODMAN
MAYOR, CITY OF LAS VEGAS

A. JURISDICTION:

Mayor Goodman is a public officer as defined by NRS 281.4365. As such, the Commission has jurisdiction over the complaint.

B. REPORT OF INVESTIGATIVE ACTIVITIES:

- Reviewed Request for Opinion 04-71 (Tab B)
- Reviewed subject's response dated November 29, 2004 (Tab C)
- Interviewed Mayor Goodman; Ross Goodman, son of Mayor Goodman; and Stephanie Boixo, former Chief of Staff for Mayor Goodman
- Conducted corporate and property holdings searches on Oscar Goodman, Ross Goodman, Stephanie Boixo, and Louis Palazzo
- Interviewed Bill Arent, Senior Economic Development Officer, Office of Business Development, City of Las Vegas, and Denise Kaplan, Contracts Specialist, City of Las Vegas

C. RECOMMENDATIONS:

Based on investigative activities, it is recommended that the Panel find that sufficient cause **DOES NOT EXIST** for the Commission to hold a hearing and render an opinion in this matter relating to the provisions of:

- NRS 281.481(2);
- NRS 281.481(5);
- NRS 281.481(9);
- NRS 281.491(3);
- NRS 281.501(2); and
- NRS 281.501(4).

SPECIFIC REASON(S):

No allegation or credible evidence of any fact exists that amounts to or supports a violation by a public employee of the above provisions of NRS Chapter 281.

D. SUMMARY OF REQUEST FOR OPINION:

The complaint alleges Mayor Goodman violated the Ethics in Government Law by allowing himself to be listed as “Of Counsel, Oscar B. Goodman, Esq.” on the letterhead of Goodman Law Group, his son Ross’ law firm. The complaint further alleges that the appearance of Oscar Goodman’s name on the Goodman Law Group letterhead constituted the Mayor using his position in government for the purposes of intimidating parties who receive letters from Ross’ law firm, and that Ross used this letterhead, in part, to pressure 85-year-old Christina Von Sturm to sell property located in the City of Las Vegas downtown redevelopment area. The complaint alleges Mayor Goodman was aware of the use of his name on his son’s firm letterhead and knowingly allowed such use, and this use implicated his public office as Mayor, and thus resulted in an unwarranted benefit to his son, Ross. The complaint also alleges violations of NRS 111.235 and NRS 41.1395(4)(b)(1).

E. SUMMARY OF SUBJECT’S RESPONSE:

In his response, Mayor Goodman denies any violations of NRS Chapter 281 as asserted in the complaint and provides the following in support of this position:

1. The redevelopment area of concern in the complaint has been the subject of public discussion and development since he became Mayor in 1999;
2. He has no independent recollection of any discussions with Ross Goodman or

- Louis Palazzo concerning the purchase of the Von Sturm property;
3. He did not discuss Ross' involvement with any redevelopment property with City staff;
 4. He abstained from voting on the city-owned redevelopment properties after he was advised of Ross' interest in the property known as the "Boulevard Hotel," which is adjacent to the city-owned parcels which, along with the Von Sturm property, are the subject of the complaint;
 5. His Chief of Staff, Stephanie Boixo, abstained from participating in discussions concerning the city-owned redevelopment parcels when she was made aware of Ross' interest in the adjacent Boulevard Hotel property;
 6. He had not seen the stationery for the Goodman Law Group until he received this complaint; and
 7. To his knowledge, the letter attached to the complaint was sent by Ross Goodman to an attorney representing Ms. Von Sturm and not directly to Ms. Von Sturm.

F. PERTINENT STATUTES AND REGULATIONS:

NRS 281.481 General requirements; exceptions.

A code of ethical standards is hereby established to govern the conduct of public officers and employees:

* * * * *

2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:

(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281.501.

(b) "Unwarranted" means without justification or adequate reason.

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5. If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.

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9. A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.

NRS 281.491 Additional standards: Representation and counseling of private person before public agency; disclosure required. In addition to the requirements of the code of ethical standards:

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3. Not later than January 10 of each year, any Legislator or other public officer who has, within the preceding year, represented or counseled a private person for compensation before a state agency of the Executive Branch shall disclose for each such representation or counseling during the previous calendar year:

- (a) The name of the client;
- (b) The nature of the representation; and
- (c) The name of the state agency.

The disclosure must be made in writing and filed with the Commission, on a form prescribed by the Commission. The Commission shall retain a disclosure filed pursuant to this subsection for 6 years after the date on which the disclosure was filed.

NRS 281.501 Additional standards: Voting by public officers; disclosures required of public officers and employees; effect of abstention from voting on quorum; Legislators authorized to file written disclosure.

* * * * *

2. Except as otherwise provided in subsection 3, in addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

- (a) His acceptance of a gift or loan;
- (b) His pecuniary interest; or
- (c) His commitment in a private capacity to the interests of others.

It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed in a private capacity is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.

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4. A public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:

- (a) Regarding which he has accepted a gift or loan;

(b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or

(c) In which he has a pecuniary interest, without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the person to whom he has a commitment, or upon his interest. Except as otherwise provided in subsection 6, such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the Chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 in a timely manner.

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8. As used in this section, “commitment in a private capacity to the interests of others” means a commitment to a person;
- (a) Who is a member of his household;
 - (b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;
 - (c) Who employs him or a member of his household;
 - (d) With whom he has a substantial and continuing business relationship;
- or
- (e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.

G. RESULTS OF INVESTIGATION:

Background Interview with Ross Goodman:

In the early 2000s, Ross Goodman worked for the law firm of Goodman, Chesnoff, and Keach. Ross passed the Nevada bar on October 5, 2001, and was admitted to practice law in this state. Shortly thereafter he entered private practice. Records of the Secretary of State indicate his law firm, Goodman Law Group, was incorporated on March 1, 2002.

Ross said that at some point after he left his father’s law firm for his solo law practice he listed his father as ‘Of Counsel’ on the letterhead to his new, solo law firm. He had no specific recollection of when he might have discussed this with his father, other than it would have been around the time he began his solo law practice.

According to Ross, Oscar Goodman receives no compensation for serving as ‘Of Counsel,’ and has nothing to do with the day-to-day operations of the Goodman Law Group. Ross said that his father consults with him primarily regarding criminal cases.

Ross Goodman found out an acquaintance was going through a divorce and was going to list the Boulevard Hotel property for sale. Ross Goodman and Louis Palazzo decided to try to buy the property prior to its listing on the market. When the purchase process was underway, the seller told Ross (he believes within a week or so of signing the Boulevard Hotel contract) the Von Sturm property next door had also been for sale for years and had never sold. Around that time, Ross and Mr. Palazzo began negotiations to purchase the Von Sturm property.

Ross and Mr. Palazzo intended to form companies specifically to purchase the two properties. The partners formed GP Properties, LLC, to buy the Boulevard Hotel, and took title to the property on August 16, 2004.

Because of the short amount of time between the beginning of the purchase process for the Boulevard Hotel and the decision to make an offer on the Von Sturm property, the two partners utilized an existing company owned solely by Louis Palazzo, PALCO, to begin the contractual purchase process for the Von Sturm property. The intent was that once PALCO obtained its ownership interest in the Von Sturm property, the Von Sturm property would be transferred to another LLC owned jointly by Ross and Mr. Palazzo. Ross was always and still is an active partner with Palazzo in meetings and other matters to facilitate the purchase of both the Boulevard Hotel property and the Von Sturm property, and it was always and still remains their intention to jointly own both properties.

On or about August, 2004, a contractual dispute arose between Ms. Von Sturm and the two partners regarding the purchase contract with PALCO. Ross, acting as the attorney for PALCO, sent the August 6, 2004 letter which is the subject of this complaint. Subsequent to sending this letter, PALCO hired John Netzorg to represent the interests of PALCO in litigation regarding the Von Sturm property acquisition. Mr. Netzorg filed the lawsuit against Ms. Von Sturm in Clark County District Court shortly thereafter, and the litigation is presently pending. Thus, neither PALCO nor Ross nor Mr. Palazzo presently have a perfected ownership interest in the land.

Both the Boulevard Hotel purchase and the pending Von Sturm purchase involve private land purchases from one owner to another. Neither the Boulevard property nor the Von Sturm property are part of the city redevelopment efforts, and neither have gone before the redevelopment agency.

Ross requested the list of bidders on the adjacent city redevelopment site four days after the publicly announced closing date for the bids as he was curious regarding what might be planned on the same block in which he planned to own property. To his knowledge, it

does not appear any city redevelopment has happened to date. He has no relationship with or connection to Cherry Development or The Related Group – the developers of the city site. To his knowledge, he was not provided with any information that was not public record. He did not ask Mayor Goodman for information regarding city redevelopment efforts. Ross confirmed that Mayor Goodman is not personally or professionally or financially involved in any way in the purchase or development of either the Boulevard Hotel or the Von Sturm properties, and never has been.

Allegations regarding NRS 281.481(2):

The complaint alleges Mayor Goodman used his position as Mayor for the purposes of intimidating Ms. Von Sturm into selling her property to his son, Ross, merely by allowing his name to be included as “of counsel” on the letterhead of his son’s law firm. The letterhead was utilized by Ross Goodman when, as the attorney for PALCO, he sent the August 6, 2004 letter regarding the contractual dispute between PALCO and Ms. Von Sturm to Ms. Von Sturm’s legal counsel.

In order for a violation of NRS 281.481(2) to be sustained, the evidence must establish both that the public officer: (1) *used* his position in government; and (2) that he secured unwarranted privileges, preferences, exemptions, or advantages through this *use*. The evidence does not establish any such overt use in this case.

According to the Secretary of State’s office, the only officer and director of Goodman Law Group is Ross Goodman. Mayor Goodman’s name does not appear in connection with Goodman Law Group in any of the investigative documents gathered in this matter except the firm’s letterhead, nor does Mayor Goodman have a pecuniary interest in Goodman Law Group. Further, although Mayor Goodman’s name does appear on the letterhead of the Goodman Law Group as “of counsel,” it does not include his affiliation with the City of Las Vegas or his title as Mayor. Ross Goodman indicates his father gives him advice or ‘counsel’ primarily in the area of criminal law. Ross does not recall ever having discussed the Von Sturm property acquisition with his father prior to media coverage and the filing of this ethics complaint.

Additionally, Mayor Goodman asserts that he did not see the Goodman Law Group letterhead until receipt of this complaint. Although Mayor Goodman’s assertion leaves open the question of whether he knew of his name on his son’s letterhead, the inclusion of his name on the letterhead does not, by itself, establish an overt act which might potentially violate this statute.

The Commission has opined regarding the use of letterhead several times; however, the opinions were regarding use of a public official’s letterhead. In contrast, the letterhead questioned within the complaint is the letterhead of a private law firm. Mayor Goodman’s title does not appear anywhere on the letterhead, and the letter was sent from one attorney to another attorney in regard to a private contractual dispute. Mayor

Goodman is a lawyer by profession and is not, in fact, a full-time public officer. It appears well within his individual rights to practice law or to consult in the practice of law, and holding a part-time public office does not preclude him from maintaining private employment.

Media reports provided to the Commission by the requestor of this complaint (see “*Firms’ Use of Mayor’s Name is Questioned*” under Tab E) alleged the appearance of Mayor Goodman’s name on Goodman Law Group letterhead may have implications in relation to *Supreme Court Rule No. 199*, which provides:

“Rule 199. Firm names and letterhead.

1. A lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule 195. The firm name shall contain the names of one or more living, retired, or deceased members of the law firm. No trade names shall be used other than those utilized by non-profit legal services organizations; however, phrases such as “the law offices of” or “and associates” shall be permissible.
2. A law firm with offices in more than one jurisdiction which has registered with the State Bar of Nevada under Rule 199.1 may use the same name in each jurisdiction. Identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations of those not licensed to practice in the jurisdiction where the office is located.
3. The name of a lawyer holding public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm. This provision does not apply to a lawyer who takes a brief hiatus from practice to serve as an elected member of the Nevada State Legislature when the legislature is in session.
4. Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.”

However, enforcement of *Supreme Court Rules* does not fall within the jurisdiction of the Commission, which is charged with the investigation of alleged violations of “this chapter” under NRS 281.465. In that context, “this chapter” means Chapter 281 of the *Nevada Revised Statutes*. An alleged potential violation of other state laws or rules does not automatically trigger an ethics law violation, and the record and evidence herein do not support the allegation of a potential violation of NRS 281.481(2).

Therefore, the Executive Director finds no credible evidence to substantiate a potential violation of NRS 281.481(2). Accordingly, the Executive Director recommends the panel find just and sufficient cause does not exist for the Commission to hold a hearing and render an opinion regarding whether Mayor Goodman violated the provisions of NRS 281.481(2).

Allegations regarding NRS 281.481(5):

The complaint asserts Mayor Goodman violated this statute but offers no credible evidence supporting this assertion. Mayor Goodman responds to this assertion by indicating he was not aware of Ross Goodman's intention to purchase the Von Sturm property, which is adjacent to the City of Las Vegas redevelopment site, until he received notice of this complaint. He acknowledges, however, he was aware of Ross' interest in purchasing the Boulevard Hotel property, which is located next to the Von Sturm property and is also located in the same block as the city redevelopment site (see Clark County Assessor's parcel map under Tab D). Mayor Goodman said the disclosures he made during the May 5, 2004 and June 2, 2004 redevelopment agency meetings were related to Ross' interest in purchasing the Boulevard Hotel, not the Von Sturm property. The Von Sturm property is located between the Boulevard Hotel, now owned by Ross Goodman and his partner, Louis Palazzo, and the City of Las Vegas redevelopment property.

In his response, Mayor Goodman asserts that he appropriately abstained from voting on issues related to the city redevelopment site in the May 5, 2004 and June 2, 2004 redevelopment agency meetings specifically because of his son's interest in purchasing the nearby Boulevard Hotel property. He further provides that his Chief of Staff, Ms. Boixo, appropriately abstained from any discussion or participation in the city redevelopment site activities once she was told of Ross' interests (due to her engagement to Eric Goodman, another son of Mayor Goodman). The minutes from the May 5, 2004 meeting affirms Mayor Goodman abstained from voting because of "his son's interest in property that would be affected by this action." The minutes from the June 2, 2004 meeting indicate Mayor Goodman abstained "because his son, Ross, has interest in the subject property." In a personal interview, Mayor Goodman restated that he had no prior knowledge of his son Ross' interest in the Von Sturm property and that, despite their wording, the minutes should have reflected a similar disclosure because he was only aware of Ross' interest in purchasing the Boulevard Hotel property during the May and June, 2004 redevelopment agency meetings. Even if he had been aware of Ross' interest in purchasing both the Von Sturm property and the Boulevard Hotel property, Mayor Goodman appears to have made an appropriate judgment call in recognizing the relationships set forth by NRS 281.501(8), disclosing his son's real property interest, and abstaining from the vote.

The evidence does not suggest that a violation of NRS 281.481(5) has occurred. In order to sustain a violation of this statute, a public officer would have to attempt to further the pecuniary interests of himself or any other person or business entity by using information acquired only through his public duties and which is not generally available to the public. According to Mayor Goodman, the redevelopment of the city site has been a matter of public discussion since he was first elected Mayor in 1999. Redevelopment agency minutes and other supporting documents indicate development on the city-owned site has

progressed through an open and competitive request-for-proposal (RFP) process. Moreover, the RFP process was in progress and discussed at the redevelopment agency board meeting, a public meeting, on June 2, 2004, and it was announced at that time that the RFP submissions for the project were due on July 26, 2004.

Media reports provided to the Commission by the requestor of this complaint indicated Mr. Bill Arent, a Senior Economic Development Officer with the City of Las Vegas Office of Business Development, sent the one-page bid register to Ross Goodman on July 30, 2004, four days after the closing date for bids. The bid register included only the names of bidders, not specific details or financial proposals within individual bids. (See “*City Worker Sent Bidder List on City Parcel to Mayor’s Son*” under Tab F.)

When interviewed, Mr. Arent said he knew Ross Goodman from their previous work together on the Center Stage project, a project on which Mr. Arent worked with Ross Goodman for more than a year. (The Center Stage project was not connected to any of the properties which are the subject of this complaint.) Mr. Arent stated that Ross Goodman requested the list of bidders, and Mr. Arent faxed the list as a professional courtesy. Mr. Arent said Mayor Goodman was not involved and did not request or approve his decision to fax the list of bidders. Mr. Arent understood from the city Contracts Division that the bidder’s list was a public record, as he specifically asked that question prior to faxing the bid to Ross Goodman.

In *NCOE Opinion No. 92-53*, the Commission on Ethics declined to find a violation of NRS 281.481(5) because information had been circulated among volunteers and had been discussed at public meetings. As the information was part of a public record, it could not have been solely available to the public official. Similarly, in this case the bidder’s list, the existence of the RFP process, and the closing date for the RFP were all part of a public record.

Regarding the Boulevard Hotel and Von Sturm land acquisitions, these are private land sales which involve the private transfer of title. As such, there has been no involvement with the city redevelopment agency regarding either property.

It is true that Mayor Goodman acts “of counsel” with his son’s law firm, and it is possible that father/son discussions may have arisen regarding the Von Sturm property due to its location near the city redevelopment land, which is of great interest to Mayor Goodman, and the Boulevard Hotel property, which is of great interest to his son, Ross. However, this is purely speculative and without an evidentiary basis. There is no evidence within the record to indicate any ‘insider’ information was available, or that any such information was obtained by Mayor Goodman or his son, Ross.

Therefore, the Executive Director finds no credible evidence to substantiate a potential violation of NRS 281.481(5). Accordingly, the Executive Director recommends the panel find just and sufficient cause does not exist for the Commission to hold a hearing

and render an opinion regarding whether Mayor Goodman violated the provisions of NRS 281.481(5).

Allegations regarding NRS 281.481(9):

The complaint alleges Mayor Goodman violated NRS 281.481(9) when he used his Chief of Staff, Stephanie Boixo, to advocate the sale of a parcel of city-owned land to a local developer. However, the complaint offers no credible evidence in support of such an allegation. In contrast, Mayor Goodman asserts that once Ms. Boixo advised him that she was assisting in the selection process for the developer of the city-owned site, Mayor Goodman informed Ms. Boixo of son Ross' interest in the Boulevard Hotel property. According to Mayor Goodman and Ms. Boixo, she immediately advised city staff that she would abstain from the selection process regarding the city redevelopment site. Interviews with Ms. Boixo and city staff affirm this.

In order to sustain a violation of NRS 281.481(9) the public official must have used his position in government to influence a subordinate to benefit his personal or financial interest. The complaint merely alleges that Mayor Goodman used his official position to influence Ms. Boixo. However, there is no credible evidence proffered in support of this allegation, or any detail provided as to how Mayor Goodman would personally or financially benefit from such alleged influence. By virtue of his position as Mayor, Oscar Goodman is on the board of the redevelopment agency – an agency whose purpose is to encourage new investment in older areas of the city through large-scale and infill development. It appears that the involvement of Mayor Goodman himself, or his staff on his behalf, would be appropriate until such time as that involvement – his official duty – conflicted with his private interests. Both Mayor Goodman and Ms. Boixo abstained from further participation when they learned of Ross' interest in the Boulevard Hotel property.

Finally, even if the facts had suggested that Mayor Goodman did use his position in government to influence Ms. Boixo regarding her brief participation in the selection process for the developer of the city-owned redevelopment property, there is no indication of any benefit that would flow to Mayor Goodman. NRS 281.481(9) prohibits a public official from using his position to benefit *his* personal or financial interest. Unlike NRS 281.501, this statute does not enumerate any additional relationships that would implicate this statute. Under the facts as presented, there is no evidence that any potential future benefit accruing to the owners of the adjacent land parcels would flow to Mayor Goodman. Mayor Goodman was not and is not involved personally or professionally or financially in purchase or development of the Boulevard Hotel property or the Von Sturm property. This was verified by Ross Goodman and corroborated by corporate and public records searches. There is no evidence within the record to indicate otherwise.

Therefore, the Executive Director finds no credible evidence to substantiate a potential violation of NRS 281.481(9). Accordingly, the Executive Director recommends the panel find just and sufficient cause does not exist for the Commission to hold a hearing and render an opinion regarding whether Mayor Goodman violated the provisions of NRS 281.481(9).

Allegations regarding NRS 281.491(3):

NRS 281.491(3) requires a legislator or public officer who has represented or counseled a private person for compensation before a state agency of the Executive Branch to disclose such representation to the Commission. The complaint makes no specific allegations nor provides any evidence in support of a violation of this statute, other than to mark the corresponding box in the complaint. It is assumed for purposes of this matter that the requestor meant to suggest Mayor Goodman represented or counseled his son for compensation before the redevelopment agency, assuming that the redevelopment agency is a state agency of the Executive Branch.

Even if you assume Mayor Goodman did, in fact, counsel or represent his son for compensation before the redevelopment agency, the question then becomes whether the City of Las Vegas Redevelopment Agency qualifies as a state agency of the Executive Branch. The Nevada Community Development Law is found in Nevada Revised Statutes Chapter 279. Specifically, NRS 279.444(1) provides:

“NRS 279.444 Action of legislative body as alternative to appointment of members; city’s exercise of powers; delegation of powers and functions.

1. As an alternative to the appointment of five members of the agency pursuant to NRS 279.440 and as an alternative to the procedures set forth in NRS 279.443, the legislative body may, at the time of the adoption of a resolution pursuant to NRS 279.428, or at any time thereafter, declare itself to be the agency, in which case, all the rights, powers, duties, privileges and immunities vested by NRS 279.382 to 279.685, inclusive, in an agency are vested in the legislative body of the community. If the legislative body of a city declares itself to be the agency pursuant to this subsection, it may include the mayor of the city as part of the agency regardless of whether he is a member of the legislative body.”

NRS 279.386 further defines an agency for community redevelopment as: “a redevelopment agency created under NRS 279.382 to 279.685, inclusive, or a *legislative body* which has elected to exercise the powers granted to an agency under NRS 279.382 to 279.685, inclusive. (Emphasis added.) The City of Las Vegas has vested the administrative authority for its redevelopment agency with the legislative body, to wit, the Las Vegas City Council. Therefore, the City of Las Vegas Redevelopment Agency would be considered a legislative agency or body.

This interpretation is consistent with the definition of a “legislative function” for the purposes of the Ethics in Government Law. NRS 281.4345 defines a legislative function as “introducing or voting upon any ordinance or resolution, *or voting upon: 1) the appropriation of public money; 2) the issuance of a license or permit; or 3) any proposed subdivision of land or special exception or variance from zoning regulations.*” (Emphasis added.)

Thus, NRS 281.491(3) is not applicable to this specific set of facts and circumstances as the statute applies only to legislators or other public officers who have represented or counseled a private person for compensation *before a state agency of the Executive Branch.*

However, should the panel disagree with this interpretation, there is no evidence within the record that Mayor Goodman counseled or represented his son for compensation within the meaning of this statute in relation to Ross’ interests in purchasing the Boulevard Hotel or Von Sturm properties. Nor is there evidence which would indicate any issues involving the Boulevard Hotel property or the Von Sturm property have ever been before the redevelopment agency.

Therefore, the Executive Director finds no credible evidence to substantiate a potential violation of NRS 281.491(3). Accordingly, the Executive Director recommends the panel find just and sufficient cause does not exist for the Commission to hold a hearing and render an opinion regarding whether Mayor Goodman violated the provisions of NRS 281.491(3).

Allegations regarding NRS 281.501(2) & 281.501(4):

The complaint does not offer any specific allegations in support of nor provide any evidence to implicate a potential violation of either NRS 281.501(2) or NRS 281.501(4). It only marks the corresponding box on the complaint form. In his response, Mayor Goodman responds to this allegation by stating that he has abstained from voting on the city-owned redevelopment property in question.

In order to sustain a violation of NRS 281.501(2), Mayor Goodman would have had to vote upon or advocate for the passage or failure of issues related to the city-owned redevelopment site without properly disclosing his son’s neighboring property interest. Mayor Goodman abstained from voting on the matter and from participating in discussions in the matter after being informed of his son Ross’ interest in the Boulevard Hotel property. Mayor Goodman states he began disclosing Ross’ interest and abstaining from the discussions related to the city redevelopment site as soon as he learned of Ross’ Boulevard Hotel interests. There is no evidence within the record to indicate otherwise.

Regarding NRS 281.501(4), there is no specific record of the exact, verbatim disclosure made by Mayor Goodman. Rather, the meeting minutes include a summation of his disclosure. The May 5, 2004 minutes reflect Mayor Goodman abstained from a vote to

direct and authorize staff to proceed with a request for development proposals for the city redevelopment site because “his son Ross is involved with some property that would be affected by this action.” On June 2, 2004 Mayor Goodman abstained from a vote to dedicate rights of way to the City of Las Vegas on land located at the southeast corner of Las Vegas Boulevard and Clark Street because “his son Ross has interest in the subject property.” A proper disclosure is one in which the public official discloses sufficient information about his private interest such that the public was aware of the conflict between his private and public interests. Mayor Goodman did disclose a familial relationship and a familial property interest sufficient to implicate NRS 281.501(8). Clearly, he made an internal analysis and determined his independence of judgment was compromised. Because Mayor Goodman terminated his participation after disclosing the familial interests, the public interest was served.

Therefore, the Executive Director finds no credible evidence to substantiate a potential violation of NRS 281.501(2) or NRS 281.501(4). Accordingly, the Executive Director recommends the panel find just and sufficient cause does not exist for the Commission to hold a hearing and render an opinion regarding whether Mayor Goodman violated the provisions of NRS 281.501(2) or NRS 281.501(4).

Allegations regarding NRS 111.235 and NRS 41.1395(4)(b)(1):

These sections of law are:

- **“NRS 111.235 Grants and assignments of existing trusts to be in writing or are void.** Every grant or assignment of any existing trust in lands, goods or things in action, unless the same shall be in writing, subscribed by the person making the same, or by his agent lawfully authorized, shall be void.”
- **“NRS 41.1395 Action for damages for injury or loss suffered by older or vulnerable person from abuse, neglect or exploitation; double damages; attorney’s fees and costs.**
 1. Except as otherwise provided in subsection 3, if an older person or a vulnerable person suffers a personal injury or death that is caused by abuse or neglect or suffers a loss of money or property caused by exploitation, the person who caused the injury, death or loss is liable to the older person or vulnerable person for two times the actual damages incurred by the older person or vulnerable person.
 2. If it is established by a preponderance of the evidence that a person who is liable for damages pursuant to this section acted with recklessness, oppression, fraud or malice, the court shall order the person to pay the attorney’s fees and costs of the person who initiated the lawsuit.
 3. The provisions of this section do not apply to a person who caused injury, death or loss to a vulnerable person if he did not

know or have reason to know that the harmed person was a vulnerable person.

4. For the purposes of this section:

- (a) “Abuse” means willful and unjustified:
 - (1) Infliction of pain, injury or mental anguish; or
 - (2) Deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of an older person or a vulnerable person.
- (b) “Exploitation” means any act taken by a person who has the trust and confidence of an older person or a vulnerable person or any use of the power of attorney or guardianship of an older person or a vulnerable person to:
 - (1) Obtain control, through deception, intimidation or undue influence, over the money, assets or property of the older person or vulnerable person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his money, assets or property; or
 - (2) Convert money, assets or property of the older person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his money, assets or property.

➔As used in this paragraph, “undue influence” does not include the normal influence that one member of a family has over another.
- (c) “Neglect” means the failure of a person who has assumed legal responsibility or a contractual obligation for caring for an older person or a vulnerable person, or who has voluntarily assumed responsibility for his care, to provide food, shelter, clothing or services within the scope of his responsibility or obligation, which are necessary to maintain the physical or mental health of the older person or vulnerable person. For the purposes of this paragraph, a person voluntarily assumes responsibility to provide care for an older or vulnerable person only to the extent that he has expressly acknowledged his responsibility to provide such care.
- (d) “Older person” means a person who is 60 years of age or older.
- (e) “Vulnerable person” means a person who:
 - (1) Has a physical or mental impairment that substantially limits one or more of the major life activities of the person; and
 - (2) Has a medical or psychological record of the impairment or is otherwise regarded as having the impairment.

➔The term includes, without limitation, a person who is

mentally retarded, a person who has a severe learning disability, a person who suffers from a severe mental or emotional illness or a person who suffers from a terminal or catastrophic illness or injury.”

Neither of these statutes are within the jurisdiction of the Commission, which is charged with the investigation of alleged violations of “this chapter” under NRS 281.465. In that context, “this chapter” means Chapter 281 of the *Nevada Revised Statutes*.

Chapter 111 of NRS contains civil statutes which deal with “Estates in Property, Conveyance, and Recording.” Chapter 41 provides for “Actions and Proceedings in Particular Cases Concerning Persons,” and in this case it purports to relate to exploitation of the elderly.

Elder abuse allegations were first leveled by Christina DeMusee, daughter of Christine Von Sturm, and aired on *Face-to-Face with Jon Ralston* on September 30, 2004. A tape of this show was submitted with the complaint and reviewed by Commission staff. Media reports indicate the Las Vegas Metropolitan Police Department investigated the Von Sturm/Ross Goodman/Louis Palazzo situation and found no criminal activity (exploitation of the elderly) had occurred (see “*Police Drop Land Sale Investigation*” under Tab G).

Regardless, the Commission has no jurisdiction to investigate potential statutory violations of NRS Chapter 41 or Chapter 111. Therefore, these allegations were not addressed by the staff investigation.

H. CONCLUSION:

The Executive Director hereby recommends the panel find just and sufficient cause does not exist for the Commission to hold a hearing and render an opinion on the allegations that the subject violated NRS 281.481(2), NRS 281.481(5), NRS 281.481(9), NRS 281.491(3), NRS 281.501(2) or NRS 281.501(4), and further that the allegations be dismissed.

DATED: July 18, 2005

Stacy M. Jennings
STACY M. JENNINGS, MPA
EXECUTIVE DIRECTOR